

REMARKS

As an initial matter, Applicant would like to thank Examiner Foster for the courtesy and consideration extended to Applicant's representatives during the personal interview conducted on March 22, 2004. During the interview, the following issues were discussed.

By this Amendment After Final, Applicant proposes amending claims 1, 36, and 64-66. No new matter has been added. Claims 1-66 are pending.

In the final Office Action, claims 1-63 were rejected under 35 U.S.C. § 112, first paragraph. The § 112, first paragraph, rejection statement asserts that "Applicant's protrusion/safety member 30 is disposed within the opening of the container 10 and therefore must obstruct (i.e., hinder potential maximum flow through) the opening of the container 10," and concludes that "[t]he limitation regarding the first opening being unobstructed by the safety member is considered to be new matter since an obstruction can be something which hinders flow." Final Office Action at 2.

Applicant respectfully disagrees with the final Office Action's conclusion that the recitation of "substantially unobstructed" is new matter at least because one skilled in the art would understand that while some embodiments of the safety member may cause some obstruction of the first opening, the safety member of at least some embodiments does not necessarily substantially obstruct the first opening. Nevertheless, in an effort to expedite issuance of a Notice of Allowance, Applicant has amended claims 1 and 36 (the only claims containing the "substantially unobstructed" recitation) to instead recite "not completely obstructed." The Examiner indicated during the interview that amending claim 1 and 36 to recite "not completely obstructed" would

overcome the § 112, first paragraph, rejection because such a recitation is clearly supported by the original disclosure. Furthermore, Applicant submits that this amendment to claims 1 and 36 does not narrow the scope of the subject matter recited in those claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 112, first paragraph, rejection of claims 1-63.

Independent Claim 1

In the final Office Action, claims 1-8, 11-13, 15, 16, 18, 20, 23-43, 46-48, 50, 52, and 53-66¹ were rejected under either 35 U.S.C. § 102(b) or § 103(a) based on Goncalves (U.S. Patent No. 5,209,565). The only independent claims included in those rejections are claims 1, 36, and 64-66. Applicant has amended those claims, thereby obviating the rejections based on Goncalves. Therefore, Applicant respectfully submits that claims 1, 36, and 64-66 should be patentably distinguishable from Goncalves because that reference does not disclose or suggest all of the subject matter recited in those amended claims, as will be explained in more detail below.

Applicant's amended independent claim 1 recites a system including, among other things, "a blunt safety member . . . , wherein the safety member extends through [a] first opening [of a first container]." The Goncalves reference fails to disclose or suggest at least that recited subject matter.

The final Office Action's rejection statement initially interprets the Goncalves reference as disclosing, among other things, a "safety member [that] may be considered

¹ Claims 64-66 were not listed in a rejection statement. Those claims, however, were included in a statement apparently relating to the Examiner's interpretation of the Goncalves reference. See Final Office Action at 2, 4. Therefore, Applicant believes the Examiner intended to reject claims 64-66 based on Goncalves.

to be defined by the cover 16.” Final Office Action at 3. The rejection statement further asserts that “[t]he safety member/cover 16 is blunt and is capable of abutting with the seal 7 when the stopper 9 is removed from the second container since the seal 7 is disposed on the edge of the neck 6 of the container 2 (col. 3, lines 25-26).” Id. The Office Action thereafter concludes that “[t]he cover 16 defines a safety member because when the cover is on the first container 3, it prevents the seal 7 from being punctured by the cutter.” Id.

Applicant does not necessarily agree with the final Office Action’s interpretation of what the Goncalves reference discloses. Applicant respectfully submits, however, that even if for the sake of argument, the cover 16 could be considered to be a safety member, the Goncalves reference, under this initial interpretation, does not disclose or suggest a configuration “wherein the safety member extends through [a] first opening [of a first container],” as recited in amended claim 1, at least because the cover 16 covers an opening without extending through the opening. Therefore, even if the cover 16 can be interpreted as being a safety member, the Goncalves reference still neither discloses nor suggests all of the subject matter recited in claim 1.

The final Office Action’s rejection statement also asserts an alternative interpretation of Goncalves. The rejection statement asserts that “the collar 19 may alternatively be considered to define a safety member since the collar [19] will be resisted by the seal 7 somewhat before the collar 19 cuts the seal [7].” Final Office Action at 4.

Applicant does not necessarily agree with the final Office Action’s alternative interpretation about what the Goncalves reference discloses. Applicant respectfully

submits, however, that even if for the sake of argument, the collar 19 could be considered to be a safety member, the Goncalves reference does not disclose or suggest a “a blunt safety member,” as recited in amended claim 1, at least because the Goncalves reference discloses that “the edge of collar 19 is bevelled [sic] so that it is a cutting edge.” Col. 3, lines 45-46. Therefore, even if the collar 19 can be interpreted as being a safety member, the Goncalves reference still neither discloses nor suggests all of the subject matter recited in claim 1.

In addition to the rejections based on the Goncalves reference, the final Office Action rejects claims 1, 18, 19, 36, 50, and 51 under 35 U.S.C. § 102(b) based on Taylor et al. (U.S. Patent No. 5,027,872). The only independent claims included in that rejection are claims 1 and 36. Applicant has amended those claims, thereby obviating the rejections based on Taylor et al. Therefore, Applicant respectfully submits that claims 1 and 36 should be patentably distinguishable from Taylor et al. because that reference does not disclose or suggest all of the subject matter recited in those amended claims, as will be explained in more detail below.

Applicant’s amended independent claim 1 recites a system including, among other things, a safety member, “wherein the safety member extends through [a] first opening [of a first container].” The Taylor et al. reference fails to disclose or suggest at least that recited subject matter.

With respect to the rejection of claim 1 under § 102(b) based on the Taylor et al. reference, the final Office Action’s rejection statement asserts that the Taylor et al. reference discloses “a first container 2, a second container 6, a coupler 22 on the first container [2], a coupler 23 on the second container [6], and a seal 9 on the second

container [6]." Final Office Action at 5. The rejection statement further asserts that "[u]pon breaking or [sic] the stop off the nozzle the open tip is disposed in the seal inlet 8," and "[t]he nozzle becomes connected by snap-fit to elements [sic] rib and groove elements 36, 37." Id. The rejection statement thereafter concludes that "there will be some resistance to the nozzle entering the inlet 8 to the extent in which the nozzle displaces the seal/displacing cap 9," and that "the nozzle of Taylor et al. defines a safety member since the tip of the nozzle will press against the seal 9 somewhat before the seal is displaced." Id.

Applicant does not necessarily agree with the final Office Action's interpretation of what the Taylor et al. reference discloses. Applicant respectfully submits, however, that even if for the sake of argument, the Taylor et al. nozzle could be considered to be a safety member, the Taylor et al. reference does not disclose or suggest a configuration "wherein the safety member extends through [a] first opening [of a first container]," at least because the Taylor et al. nozzle does not extend through an opening. Therefore, even if the Taylor et al. nozzle can be interpreted as being a safety member, the Taylor et al. reference still neither discloses nor suggests all of the subject matter recited in claim 1.

Because neither the Goncalves reference nor the Taylor et al. reference discloses or suggests all of the subject matter recited in Applicant's amended independent claim 1, that claim is patentably distinguishable from those references and should be allowable.

Independent Claim 36

As outlined above, the final Office Action contains rejections of claim 36 under 35 U.S.C. § 102(b) based on the Goncalves reference and the Taylor et al. reference. During the interview, the Examiner indicated that if claim 36 were amended to recite, in pertinent part, “when the safety member is pressed against the seal, and wherein the first opening is not completely obstructed by the safety member,” claim 36 would be patentably distinguishable over the prior art of record. Applicant does not necessarily agree with the rejections of claim 36. In the interest of expediting issuance of a Notice of Allowance, however, Applicant has amended claim 36 to include the above recitation. Therefore, Applicant’s amended independent claim 36 should be allowable.

Independent Claim 64

Applicant’s amended independent claim 64 recites a system including, among other things, “a blunt safety member . . . , wherein the safety member extends through [a] first opening [of a first container].” For reasons at least similar to those outlined above with respect to claim 1, the Goncalves reference fails to disclose or suggest at least that recited subject matter. Therefore, independent claim 64 is patentably distinguishable from Goncalves and should be allowable.

Independent Claim 65

Applicant’s amended independent claim 65 recites a system including, among other things, “a blunt safety member . . . and a cap member associated with [a] first

opening [of a first container]. . . ." As will be explained in more detail below, the Goncalves reference does not disclose at least that subject matter recited in independent claim 65.

The final Office Action apparently asserts that according to the rejection statement's initial interpretation about what Goncalves discloses, Goncalves allegedly discloses a "safety member [that] may be considered to be defined by the cover 16." Final Office Action at 3. Under this initial interpretation, Goncalves does not also disclose a cap associated with the first container. Furthermore, under the final Office Action's alternative interpretation, the Goncalves reference allegedly discloses a collar 19 which corresponds to a safety member, as outlined above with respect to claim 1. Such an interpretation does not apply to amended claim 65 because Goncalves does not disclose or suggest the collar being blunt, as outlined above. Therefore, Goncalves does not disclose or suggest all of the subject matter recited in independent claim 65. Accordingly, claim 65 is patentably distinguishable over Goncalves and should be allowable.

Independent Claim 66

Applicant's amended independent claim 66 recites a system including, among other things, "a blunt safety member . . . configured to stay in place after [a] first container and [a] second container are placed in flow communication with one another." As will be explained in more detail below, the Goncalves reference does not disclose at least that subject matter recited in independent claim 66.

The final Office Action apparently asserts that according to the rejection statement's initial interpretation about what Goncalves discloses, Goncalves allegedly discloses a "safety member [that] may be considered to be defined by the cover 16." Final Office Action at 3. This interpretation does not apply to claim 66 at least because the cover 16 is configured to be removed in order to place the first container 2 and the second container 6 in flow communication. Furthermore, under the final Office Action's alternative interpretation, the collar 19 cannot be considered to be a blunt safety member. Therefore, Goncalves does not disclose or suggest all of the subject matter recited in independent claim 66. Accordingly, claim 66 is patentably distinguishable over Goncalves and should be allowable.

Conclusion

For at least the reasons set forth above, independent claims 1, 36, and 64-66 should be allowable. Dependent claims 2-35, and 37-63 depend from independent claims 1 and 36, respectively. Consequently, those dependent claims should be allowable for at least the same reasons claims 1 and 36 are allowable.

Therefore, Applicant respectfully requests entry of this Amendment After Final, the reconsideration of this application, the withdrawal of the outstanding claim rejections, and the allowance of claims 1-66.

If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicant's undersigned representative at 571-203-2739.

Applicant respectfully submits that the Office Action contains numerous assertions concerning to the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant declines to automatically subscribe to those assertions.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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